



EMPLOYMENT TRIBUNALS

BETWEEN:

Mr M M Javed
Claimant

and

Uppingham Indian Cuisine
Limited
Respondent

Consideration of An Application for Reconsideration

Held at: In Chambers

Before: **Employment Judge Clark**

DECISION

1. The Claimant's application for reconsideration of the tribunal's judgment is granted.
2. The judgment dated 8 February 2019 and sent to the parties on 18 February 2019 is revoked.
3. Case management orders will follow separately.

REASONS

1. The claimant's claims were listed to be determined at Leicester at **10am** on Friday 8 February 2019 with a time estimate of 3 hours. That listing was a revised listing which made changes to the original listing which was for a 1 hour hearing on the same date but commencing at 12 noon.
2. The claimant attended at the revised, allotted time. The Respondent did not and the matter was dealt with in the its absence, concluding shortly after 11 am.
3. Shortly before 12 noon, and relying on the original notice of hearing, Mr Hasan, a director of the respondent, attended the Leicester hearing centre and was told of the outcome. He promptly sent email to the tribunal, at 14:30 that same day. The judgment which had by then been issued was subsequently sent to the parties on 18 February. Upon receipt of that judgment, Mr Hasan has again made contact with the Tribunal by email dated 18 February, this time in terms which I deem are to be treated as an application for reconsideration. In that he asserts that he has not been notified and was not aware of the change of time of the hearing.
4. Such an application falls to be considered under rules 70-72 of schedule 1 of the Employment Tribunals (Constitution and Rules of Procedure) Regulations 2013. By rule 71, an application for reconsideration must be made in writing within 14 days of the decision being sent setting out why reconsideration of the original decision is necessary. The respondent's application was therefore made in time.
5. By rule 70, the tribunal may reconsider any judgment where it is necessary in the interests of justice to do so and, if it decides to do so, may vary, revoke or confirm the original decision. Under the present rules, there is now a single threshold for making an application, that is, that reconsideration is necessary in the interests of justice. There must therefore be something about the nature of how the decision was reached, either substantively or procedurally, from which the interests of justice would be offended if the original decision was allowed to stand.
6. If I conclude the interests of justice were engaged, by rule 71(1) I am then to give initial consideration to the prospects of the application which determines whether it is necessary to seek the views of the claimant and whether the matter can be dealt with on paper or at a further hearing. Where the application can be said to carry no reasonable prospects of being varied or revoked, the rules dictate that I shall refuse the application without being required to consider the matter further.
7. I am satisfied that the notice of change to the listing was correctly addressed and sent to a correct email address for the respondent. The fact that it had not come to the respondent's notice does not, therefore, appear to be a failure on the part of the tribunal and is certainly not due to in any respect to the claimant. However, the respondent clearly was engaging in the case and labouring under the belief it was attending a hearing at the allotted time. I also take

into account the fact that there was no contact with the respondent attempted on the day in question upon it being apparently late for the hearing. For those reasons I am satisfied that the interests of justice do require the judgment to be reconsidered and that in the circumstances it is not necessary to consider the application further at a hearing. Nor will it add to the substance of matters before me to delay by seeking the claimant's views on the application. Indeed, I recall that it was explained that proceeding in the absence of the respondent could lead to this very application with the unfortunate result that the hearing would have to be run again.

8. In the circumstances, the judgment will be revoked and the matter relisted.

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Employment Judge Clark

Date: 20 February 2019

JUDGMENT SENT TO THE PARTIES ON

21 February 2019

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AND ENTERED IN THE REGISTER

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FOR SECRETARY OF THE TRIBUNALS